plaintiff afterwards became the assignee of this mortgage; that in purchasing the note secured by this mortgage plaintiff relied on the abstract prepared by defendant for the purpose of effecting the mortgage loan; that said abstract did not disclose the true record title; and that plaintiff suffered damage. *Held*, sustaining defendant's demurrer, that the declaration did not set forth a good cause of action. *Tapley* v. *Wright*, 32 S. W. Rep. 1072 (Ark.).

It is clear that defendant is under no contractual liability to plaintiff. If it is true that it is not the usual course of business for the purchaser of a mortgage note to rely on the abstract furnished to the original mortgagee, it is clear that defendant is not liable to the plaintiff in an action sounding in tort. But if it is the usual course of business that one purchasing a mortgage note may and does, on making his purchase, rely on the abstract prepared for the original mortgagee, there is American authority for holding defendant liable in tort. Minority opinion in *Savings Bank* v. *Ward*, 100 U. S. 195, at 207; *Dickel* v. *Abstract Co.*, 14 S. W. Rep. 896 (Tenn.). See also *Telegraph Co.* v. *Dryburg*, 35 Pa. St. 298; *Tobin* v. *Tel. Co.*, 23 Atl. Rep. 324 (Pa.). *Blood Balm Co.* v. *Cooper*, 83 Ga. 457. *Contra Savings Bank* v. *Ward*. In England, in any view of the facts of the principal case, defendant's demurrer would be sustained. *Peek* v. *Derry*, 14 Appeal Cases, 337; *Scholes* v. *Brook*, 63 L. T. N. S. 837; *Le Lievre* v. *Gould*, L. R. (1893), 1 Q. B. 491.

TRUSTS — BANKS — NOTES FOR COLLECTION — INSOLVENCY. — Plaintiff bank sent the B. bank various claims for collection. After collection, and before remittance to plaintiff, the B. bank failed, and defendant was appointed assignee. Plaintiff sued assignee as a preferred creditor for the amount of the claims so collected, contending that the B. bank held them in trust. *Held*, that plaintiff should succeed. When a trustee mingled his own funds with those of trust property, the latter being actually represented among his assets, the beneficiary had a preferred claim for the amount of the trust. *Winstandley* v. *Second Bank of Louisville*, 41 N. E. Rep. 956 (Ind.). See NOTES.

TRUSTS — BANKS — NOTES FOR COLLECTION — INSOLVENCY. — Plaintiff sent a note to the J. bank for collection. When the latter received the note it knew itself to be insolvent, but collected the note before it went into the hands of defendant assignee. Plaintiff filed a preferred claim for the amount of the note. *Held*, that, as collection was made before actual assignment even though after known insolvency, the J. bank became a debtor, and plaintiff must come in with general creditors. *Sayles* v. *Cox*, 32 S. W. Rep. 626 (Tenn.). See NOTES.

TRUSTS — LACK OF BENEFICIARIES. — *Held*, that a bequest to a church, "to be used in solemn masses for the repose of my soul," is equally invalid, whether as a direct bequest to the church, or as creating a charitable use, or as creating a private trust, there being in the latter instance no living beneficiary. The court decreed that the sum should remain in the hands of the executors, although it defeated the testator's wishes, and although the church was willing to perform the intended trust. *Festorazzi et al.* v. *St. Joseph's Catholic Church of Mobile, et al.*, 18 So. Rep. 394 (Ala.). See NOTES.

REVIEWS.

THE PRINCIPLES OF EQUITY AND EQUITY PLEADING. By Elias Merwin, late of the Boston Bar, and Professor in the Law School of Boston University. Edited by H. C. Merwin. Boston and New York: Houghton, Mifflin and Company. 1895. 8vo, pp. xci, 658.

"The lectures which compose this book were delivered by Mr. Merwin at the Law School of Boston University," says Mr. H. C. Merwin, the son, in his Preface. "The author drew his illustrations chiefly, though by no means exclusively, from the English Courts, from the Federal Courts, and from the Supreme Court of Massachusetts," as was natural in a lecturer in the Boston University Law School. The "editors," however, of whom there were apparently others than Mr. H. C. Merwin, for the Preface mentions two other than he, have added in brackets the valuable

cases from other States, without descending to the collection of "all the cases." They have in addition amplified the text in places, as for example by the insertion of a long note condensing Messrs. Warren and Brandeis's article on Privacy in the HARVARD LAW REVIEW and the "Notes" which the REVIEW has since published supplementary thereto. The important case of *Schuyler* v. *Curtis*, dealing with rights to privacy, was decided after the publication of the book. By this amplification and the addition of American cases, the treatise has been made a fairly complete one, although its six hundred and fifty-eight closely printed pages scarcely seem to justify the claim of the Preface that it is a "short" one. The noteworthy and praiseworthy feature of the book, on the contrary, is that it treats voluminously — the text occupying an extraordinarily large proportion of the pages as modern law books go — almost every point in the law of equity which one might wish to turn to. Exactly what must be in a bill in equity, and what used to be necessary but now is not, are questions a full and ready answer to which is to be found at once here; in like manner the chapter on Mistake is full and valuable, and throughout the book the experience of the lecturer in explaining everything so fully as to make his hearers' understanding certain has been turned to good account for the benefit of the reader. R. W. H.

THE ORIGIN AND HISTORY OF CONTRACT IN THE ROMAN LAW. (Yorke Prize Essay for 1893.) By W. H. Buckler, B. A., LL. B., of Trinity College, Cambridge. London: C. J. Clay & Sons. 1895. pp. vii, 228.

Within the limits of 217 pages the author attempts to outline the history of contract in the Roman law down to the end of the Republic. His work, as he says in the preface, "professes only to be a sketch," and assumes that the reader is "familiar with the ordinary terms and rules of the Roman law." It is, indeed, a very brief summary, and does not go so deeply into the subject but that the average student of the Institutes may read it without difficulty. The first three chapters on the contracts of the regal period and the early Republic are quite well done, giving in narrow compass the results of the best German thought, and also some clever conjectures of the author. The remaining five chapters on the contracts of the later Republic, and especially on those of the *jus gentium* will scarcely be found very attractive or useful. They are full of names, dates, and edictal formulæ. Without attempting to get at Roman conceptions and theories of contract, the writer undertakes an inquiry into the age of each contract and its probable connection with previous institutions. If one would learn whether *societas* was actionable in the time of Plautus, or whether Cicero could have recovered in the *actio commodati*, one may find data for an opinion here. It is good to have these things put together in English, and the student who does not care to read the later chapters continuously will find a good index to guide him to what he seeks. F. B. W.

THE KING'S PEACE. By F. A. Inderwick, Q. C. London: Swan, Sonnenschein, & Co. Lim. New York: MacMillan & Co. 1895, pp. xxiv, 254.

Whatever a reader might ordinarily expect to find under the title of "The King's Peace," the sub-title in the present case, "A Historical